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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on <u>JUNE 7, 2007</u></p> <p>Signature <u>Clifford Kraft</u></p> <p>Typed or printed name <u>CLIFFORD H. KRAFT</u></p>		Application Number	Filed
		<u>10/674,151</u>	<u>9-29-03</u>
		First Named Inventor	<u>CLIFFORD KRAFT</u>
		Art Unit	Examiner
<u>3661</u>	<u>Y. BEAULIEU</u>		
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>35,229</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:) Art Unit: 3661
)
Clifford Kraft et al.) Examiner: Y. Beaulieu
)
Serial No.: 10/674,151)
)
Filing Date: Sept. 29, 2003)
)
Title: SYSTEM AND METHOD FOR)
PROVIDING REAL-TIME ROAD)
CONSTRUCTION INFORMATION)
FOR VEHICLE TRIP)
PLANNING SYSTEMS)
)

REQUEST FOR PRE-APPEAL BRIEF CONFERENCE

The applicant hereby requests a pre-appeal brief conference under the Pre-Appeal Brief Conference Pilot Program.

REMARKS

The examiner issued a final rejection June 21, 2006. A notice of appeal was filed Sept. 18, 2006 with an appeal brief timely filed. The examiner re-opened prosecution with the present non-final action issued on March 7, 2007. The examiner has stated that the applicant has the option of either responding to this office action in the normal way or initiating a new appeal. The applicant has chosen to initiate a new appeal with the enclosed notice of appeal under 37 C.F.R. §41.31. However, before filing another brief, the applicant requests a pre-appeal brief conference.

ARGUMENTS

The examiner has rejected the claims under 35 U.S.C. §103(a) using one of the same references as before (Bruce et al. U.S. 6,765,998).

I. Description of the Bruce et al. Reference

Bruce et al. (U.S. 6,765,998) teach a method and system for providing a telephone caller information assistance such as driving directions from a starting location to a destination location. First an attempt is made to automatically locate the caller, then the principal method of providing directions to a caller is to play an audio set of instructions (Abstract). The caller first receives a message that his call is being transferred to an operator; the operator finds the directions from a database, and the directions are played back verbally over the telephone (Fig. 4 and Abstract).

In the preferred embodiment of Bruce et al., the user first places a telephone call to the access system and then selects a desired destination location. This may be the name of a person, an address, hotel, store, restaurant, office, or originate from the white or yellow pages. The callers location is automatically determined, and the service automatically communicates step-by-step driving directions to the caller by synthesized voice, from a live operator or by a voice mail or Email message (Col. 2, lines 28-67). In particular, the route to the destination may be mapped "taking into account the route traffic, travel times, road conditions, and route weather conditions." (Col. 2, lines 57-60). What is not taught is displaying for the user location along the route of any road construction sites. Only general "route traffic" and "travel times" are taught. While these may in some cases relate to the presence of road construction, they alone, do

not locate road construction sites for the user. Bruce teaches that road construction information may be obtained from local travel authorities (Col. 9, lines 25-35), and that "the traffic/construction can be used by the system to avoid routes that are closed or are experiencing undue delays due to construction." (Col. 9, lines 46-51). However, Bruce only uses this information to automatically choose a route for the user; there is no teaching or suggestion of displaying the location of construction sites so that the user can themselves choose the route based on the construction data. In contrast, the applicant's invention allows the user to evaluate all road construction along any route and then decide, possibly based on the amount and length of the construction, whether to use that route or to choose another.

Figure 3 shows some of the major differences between the Bruce et al. reference and the applicant.

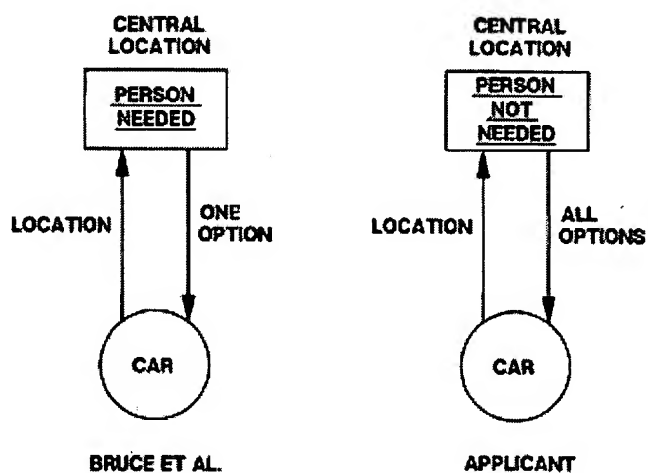


Figure 3

Bruce et al. teach that a person phones in from a car or elsewhere and the location is determined. A live

operator or other person is then needed to return information to the user. The user only receives one option on how to get where he or she wants to go - a particular route determined by the system of Bruce et al. In contrast, in the applicant's invention, no person is needed, and even more important, the user is allowed to consider all options as to routes since road construction information is returned for any regions the user wants to see. As previously stated, a driver may a totally different route even through different states to reach the destination. This is a decision the user is free to make since he or she has complete road construction information for any proposed route. Bruce et al. teach finding one particular route from the user's location to a chosen destination; the applicant teaches supplying road construction information for any route between any points, not just a single route from the current location of the user to some other fixed location. With the applicant's invention, for example, a user could be in Seattle planning a trip from Phoenix to Dallas. This is impossible with the system of Bruce et al.

II. Bruce et al. Simply Does Not Teach Displaying Road Construction Information

The Bruce reference not only does not teach displaying construction information, but in fact, Bruce teaches away from any displaying of information and states that step-by-step automatically computed directions should be supplied to the user by voice. Even the operator in the Bruce invention does not get to see any construction information; rather, the Bruce system automatically considers construction information in generating a route. For this reason, the examiner has failed to make a *prima facie* case

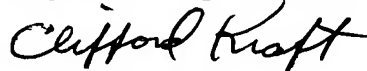
of obviousness. The following table charts the missing elements in Bruce et al.

Claim 9: At least one telemetric system;	No
A central information gathering location;	Yes
means for providing road construction information to said telemetric system;	No
Claim 17 - telemetrics system	No
receiving road construction information from at least one governmental agency;	Yes
transmitting said road construction information to said telemetrics system;	No
causing said the construction information to be displayed in a vehicle including closed lanes and times;	No
Claim 21: - trip planning system	Yes
computer;	Yes - not in car
storage device;	Yes - not in car
communications sub-	Yes

system;	
computer receives reports of road construction sites;	Yes
computer stores the reports in the storage device;	Yes
computer displays map information and road construction information.	No

The examiner admits that Bruce et al. fail to teach providing road construction information through a telematics system from a central location with the information to be displayed in the vehicle (Current Office Action, p. 2, bottom), but states that it would obvious to one of ordinary skill in the art. Since the examiner's previous rejection using Bruce et al. and Desai did make a *prima facie* case of obviousness, using Bruce et al. alone cannot possibly make this case.

Respectfully Submitted



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Serial: 10/674,151

Filed: Sept. 29, 2003

Inventors: Clifford H. Kraft et al.

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I certify that this paper is being filed by United States First Class Mail with sufficient postage addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria VA. 22313-1450

On Date: JUNE 7, 2007

Signature: Clifford Kraft

Name: Clifford H. Kraft - Attorney of Record - Reg. # 35,229